IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.APPEAL NO.884 OF 2005

The State of Maharashtra]
(Through the Umbraj Police]
Station, Raigad]..Appellant
(Ori.Complainant)

Vs.

Marutirao Pandurang Shinde]
Age 76 yrs.]
R/o Chaphal, Taluka Patan,]
Dist.Satara]..Respondents
(Ori.Accused)

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Mr.A.S.Gadkari A.P.P. for the State
Mr.Abhaykumar Apte Advocate (appointed) for Respondent.

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CORAM: D.G.DESHPANDE AND SMT.V.K.TAHILRAMANI,JJ.

DATE : APRIL 19,2006

ORAL ORDER (PER SMT.V.K.TAHILRAMANI,J.):

1. Heard the learned A.P.P. for the State and Mr.Apte, the learned advocate for the Respondent-accused.

2. Respondent-original accused has been convicted under Section 304 of IPC and sentenced to R.I. for 14 months and to pay a fine of Rs.5000/- in default

S.I. for six months. Being aggrieved by the quantum of sentence awarded to the Respondent, the State has preferred this appeal for enhancement of the sentence imposed on the Respondent.

3. The prosecution case is that the Respondent had murdered his son Vijay. Vijay was addicted to liquor. Quarrels used to take place between the Respondent and his son Vijay frequently. On many occasions, Vijay had abused family members under the influence of alcohol. Though Vijay was married, he was not doing any work and was not looking after his wife and his parents. On the date of incident, Vijay was found dead with injuries on his head. It is the case of the prosecution that the Respondent had caused said injuries to Vijay and caused his death. After trial, Respondent came to be convicted and sentenced as above.

4. The trial was decided on 24.12.2004 i.e. about one and half year ago. The learned Sessions Judge in the judgment has observed that the accused is 72 years old, he is sick person and he could not walk properly and stand firmly on his legs. Even as per

the prosecution, the Respondent is 72 years of age and he is sick and infirm. The learned Sessions Judge has further observed that deceased Vijay was addicted to liquor and though Vijay was married, Vijay was not doing any work and was not looking after his wife and/or his parents. Vijay was causing trouble to the accused i.e. his father and also to his mother. Offence had occurred as the accused was provoked by misconduct of his son. Thus, taking into account the facts of this case, the old age of the accused, his ill health and other circumstances, the Respondent-accused was sentenced to suffer R.I. for fourteen months. Looking to the above facts, we do not find that this is a fit case to enhance the sentence imposed on the Respondent-accused who is now 74 years of age and who is also admittedly sick and infirm, Appeal is therefore, dismissed.

[D.G.DESHPANDE, J.]

[SMT.V.K.TAHILRAMANI,J.]